

REMARKS

Pending Claims

Claims 1 to 3 and 7 are pending.

Rejections under 35 U.S.C. § 102

Claims 1, 2, and 7 have been rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,770,149 to Raible. Applicants respectfully traverse this rejection of the claims.

It is fundamental that in order for a reference to anticipate a claim the reference must disclose or teach each and every limitation of the claim. Applicants submit that the Examiner has failed to consider each of these limitations in this rejection. Claim 1 is directed to an integrated device for oxygenating and filtering blood flowing through an extracorporeal blood circuit. The device comprises a monolithic housing including a first portion which is described as “positioned at a top of the monolithic housing for defining the bubble trap” and a second portion which is described as “positioned at a bottom of the monolithic housing for defining the blood pump”. Claim 1 further recites that the blood pump has an outlet positioned at a top of the blood pump.

Raible discloses an oxygenation system having an integrated blood pump, heat exchanger and oxygenator. Raible describes the system as including a disposable component comprising an integrated pump/heat exchanger/membrane oxygenator component 12 (the “P/HE/MO component”) which is removably mounted on a multiple use component comprising the motor drive component 14 (the “M/D component”). (Raible, col. 5, lines 18 to 24).

In explaining the rejection the Examiner states in paragraph 6 of the Office Action that Raible discloses a “bubble trap (30)” having an inlet (FIG. 3:28) for receiving venous blood and an outlet (52) for supplying venous blood. The Examiner also states “that Raible also discloses the bottom portion of the cavity 30 below the bubble outlet port 31 may also house the impeller 40 of the pump 14”. The Examiner further states in paragraph 7 of the Office Action that Raible discloses a blood pump 14 having an outlet 52 “positioned at a top of the blood pump 14 because the pump 14 is positioned below the outlet 52 and thus the outlet is positioned at a top of the blood pump”. In paragraph 12 of the Office Action the Examiner states that the integrated device disclosed by Raible includes “a monolithic housing 12 Figs. 1 and 2 (col. 5, line 22) including first portion 30 (figure 3) positioned at the top of the monolithic housing (fig. 1) for defining a bubble trap 30, 31, a second portion 14 positioned at the bottom 13 of the monolithic housing 12 for defining the blood pump 14 (see Figure 2: 16, 17, 48 and Figure 3: elements 48, 46 44, 42, 40, 38)...”

Applicants respectfully submit that the rejection must be withdrawn for at least the reason that the Examiner has mistakenly construed the “monolithic housing 12” (the P/HE/MO component) to include portion 14 for defining the blood pump (the M/D component). In fact, Raible makes it very clear that these components are separate and distinct, the P/HE/MO component 12 being disposable and the separate M/D component 14 being reusable. Thus, the Examiner should not have considered “portion 14” to be a part of monolithic housing 12. This misconception has led the Examiner to erroneously conclude that Raible discloses a monolithic housing including a “second portion [portion 14] positioned at a bottom of the monolithic housing for defining the blood pump” and that the blood pump has “an outlet positioned at a top of the blood pump [portion 14]”.

Based on the foregoing, Applicants respectfully request that the rejection of claim 1 be withdrawn. Claims 2 and 7 depend from claim 1 and thus add further limitations to claim 1. Therefore, Applicants believe claims 2 and 7 are also allowable for at least the same reasons as claim 1 and respectfully request that the Examiner withdraw the rejection of claims 2 and 7.

Rejections Under 35 U.S.C. § 103

Claim 3 has been rejected under 35 U.S.C. § 103(a) as unpatentable over Raible in view of U.S. Patent No. 5,924,848 to Izraelev. Applicants respectfully traverse this rejection.

Claim 3 depends from claim 1 and adds further limitations to claim 1. For the reasons presented above, claim 1 is allowable. Because claim 3 depends from claim 1, claim 3 is also allowable for at least the same reasons as claim 1.

Conclusion

In view of Applicants' remarks, the claims are believed to be in condition for allowance. Reconsideration, withdrawal of the rejections, and passage of the case to issue are respectfully requested.

Response
Applicants: Edgardo Costa Maianti et al.
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Respectfully submitted,

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